



**Billing Code: 4520-43-P**

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**Petition for Modification of Application of Existing Mandatory Safety Standard**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

#### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2018-002-M.

Petitioner: Central Plains Cement Company, 1801 Wewatta Street, Suite 1000, Denver, Colorado 80202.

Mine: Sugar Creek Mine, MSHA I.D. No. 23-02171, located in Jackson County, Missouri.

Regulation Affected: 30 CFR 49.6(a)(1) (Equipment and maintenance requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the maintenance of a minimum of six approved self-contained breathing apparatus at its mine rescue station in lieu of twelve self-contained breathing apparatus. The petitioner proposes to maintain a mine rescue station with a minimum of six approved self-contained breathing apparatus and all equipment identified in 30 CFR 49.6(a)(2) through (a)(9). This station would contain sufficient equipment to equip one mine rescue team.

The petitioner states that:

(1) Central Plains Cement is the operator of the Sugar Creek Mine, and controlled by Eagle Materials, Inc.

(2) Sugar Creek is an underground limestone mine, located at 2200 N. Courtney Road, Sugar Creek, Missouri 64050, in Jackson County, Missouri, Mine I.D. No. 23-02171. The active workings are accessed from the surface via a 700 foot vertical shaft. Sugar Creek is a room and pillar mine with multiple openings to active milling areas.

(3) The petitioner has established a single mine rescue team for Sugar Creek. The mine rescue team consists of eight qualified and trained members.

(4) The petitioner has entered into an agreement with Martin Marietta Kansas City, LLC (“Martin Marietta”) whereby Martin Marietta agrees to provide mine rescue services by the Martin Marietta Materials, Kansas City Mine Rescue team as needed to Sugar Creek. Similarly, petitioner has agreed to provide rescue services by the Sugar Creek mine rescue team as needed to three Martin Marietta locations.

(5) The Sugar Creek mine rescue team will provide services to the Martin Marietta’s Randolph Deep Mine (Randolph) located at 401 Randolph Road, Randolph, Missouri 64161, in Clay County, Missouri, Mine I.D. No. 23-02308; The Stamper Underground Mine (Stamper) is an underground limestone mine, located at 13500 Interurban Road, Kansas City, Missouri 64163, in Platte County, Missouri, Mine I.D. No. 23-02232; and its Parkville Quarry (Parkville) is an underground limestone mine, is located at 7600 NW 9 Hwy., Parkville, Missouri 64152, in Platte County, Missouri, Mine I.D. No. 23-01883.

(6) On January 2, 2018, Martin Marietta filed a Petition for Modification seeking approval for the identical modification of 30 CFR 49.6(a)(1) requested herein.

(7) The petitioner has a mine rescue station located at Sugar Creek. Prior to December 20, 2017, the Sugar Creek mine rescue station and Martin Marietta’s Mine rescue station at Randolph each contained equipment sufficient only to supply one mine rescue team. As of December 20, 2018, Martin Marietta relocated certain mine rescue team equipment, including six self-contained breathing apparatus, gas monitors, cap lamps, and oxygen bottles, to the Sugar Creek mine rescue station to ensure that the

combined mine rescue station at Sugar Creek is in compliance with 30 CFR 49.6(a).

However, if MSHA grants the relief sought by this petition, Martin Marietta intends to return that mine rescue team equipment to Randolph.

(8) The proposed modification would provide at least the same measure of safety contemplated by the standard. Pursuant to the mine rescue services arrangement between Martin Marietta and petitioner, there will always be two mine rescue teams available whenever miners are underground and a minimum of twelve approved self-contained breathing apparatus available for a mine emergency. Both Stamper and Parkville are within thirty minutes or less of ground travel time from Randolph, and Randolph is located within fifteen minutes of ground travel time from Sugar Creek. When maintained in the individual mine rescue stations as petitioned for, the self-contained breathing apparatus could be used immediately or transported to another mine within a maximum forty-five minutes ground travel time.

(9) The petitioner seeks an alternative method of compliance with 30 CFR 49.6(a)(1) and proposes the following for the Sugar Creek mine rescue station:

(a) Self-Contained Breathing Apparatus: The mine rescue station will be equipped with a minimum of six self-contained breathing apparatus, each with a minimum of four hours capacity (approved by MSHA and NIOSH under 42 CFR Part 84, subpart H), and any necessary equipment for testing such apparatus.

(b) The petitioner will maintain a mine rescue station provided with all equipment identified in 30 CFR 49.6(a)(2) through (a)(9).

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the existing standard.

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Sheila McConnell,  
Director, Office of Standards, Regulations, and Variances.  
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